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March 24, 2025

The Honorable Alvin K. Hellerstein
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: United States v. Charlie Javice and Olivier Amar, 23 Cr. 251 (AKH)

Dear Judge Hellerstein:

Defendant Charlie Javice respectfully submits this letter requesting that the Court require certain redactions to Government Exhibit 1464-A, which was admitted into evidence on February 26, 2025 during the Government's direct examination of Behram Panthaki, the only witness in this case to testify regarding this exhibit. *See* Feb. 26, 2025 Tr. at 449:7-8. As explained below, the proposed redactions relate to portions of the exhibit that neither Mr. Panthaki nor any other witness in the case has authenticated.

The proposed redactions to Government Exhibit 1464-A are in line with Mr. Panthaki's testimony. Government Exhibit 1464-A is a spreadsheet containing hundreds of numerical figures across 16 separate tabs. The spreadsheet purports to be an attachment to Government Exhibit 1464, an email from more than five years ago that was neither sent to nor received by Mr. Panthaki. Ms. Javice's version of the exhibit redacts portions of the spreadsheet that Mr. Panthaki explicitly stated that he did not recall, and which were not the subject of Mr. Panthaki's testimony. On direct examination, the Government showed Mr. Panthaki only the first of the 16 tabs in the spreadsheet, a tab entitled "Count_Summary." This tab consists of five columns containing 33 rows of monthly figures, with one row containing the sum totals of the figures in each of the five columns—in other words, a total of 170 numerical figures. On voir dire, Mr. Panthaki testified that he recalled only the totals. Asked whether "all of the numbers are exactly as they appeared years ago when [Mr. Panthaki] reviewed it[.]" Mr. Panthaki responded, "I don't recollect all of the numbers." When asked by the Court whether he remembered "[t]he totals," Mr. Panthaki testified that "[t]he totals look very familiar; yes, your Honor." *See* Feb. 26, 2025 Tr. at 448:10-449:6. Ms. Javice objected to admission of the exhibit on authenticity grounds, but the court overruled the objection. Feb. 26, 2025 Tr. at 449:3-7. Ms. Javice now requests the Court reconsider that ruling in part.

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Because the only portions of this spreadsheet that Mr. Panthaki recognized were the totals in the first tab of the spreadsheet, the remainder of the spreadsheet should be redacted because it has not been authenticated. *See, e.g., United States v. Holmes*, No. 5:18-cr-00258-EJD-1, 2021 WL 2044470, at *54, 56 (N.D. Cal. May 21, 2021) (finding Defendants’ deposition testimony that she thought she had “seen some of the content” in a spreadsheet was insufficient to authenticate it); *Last Atlantis Capital LLC v. AGS Specialist Partners*, 262 F. Supp. 3d 641, 677 (N.D. Ill. 2017) (finding exhibits were inadmissible even though the witness “could testify as to how [they] were created” because “he could not authenticate or lay a foundation for any of the underlying data from which these exhibits were created”) (emphasis added)); *United States v. Dupree*, 620 F. App’x 49, 53 (2d Cir. 2015) (affirming district court’s decision to admit a spreadsheet only “for the fact of its existence but not for the truth of its content” where the witness “testified that she had seen a similar spreadsheet on a colleague’s desk, but could not attest to its contents”).

For these reasons, Ms. Javice respectfully requests that the Court order that Government Exhibit 1464-A be redacted in accordance with the proposed redactions in Exhibit A to this letter, leaving the five totals on the first tab and the titles of the columns.

Very truly yours,

/s/ Sara C. Clark

Sara C. Clark

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